

May 23, 2022

## REVIEW OF NOMINATING PETITION

## TOM BARRETT Republican Candidate for U.S. Representative in Congress, 7th District

## **NUMBER OF VALID SIGNATURES REQUIRED:** 1,000 signatures.

**TOTAL FILING:** 1,480 signatures.

**RESULT OF FACE REVIEW:** 1,434 facially valid signatures, 46 invalid signatures.

Total number of signatures filed		1,480
Jurisdiction errors (no city in county known by name given	Less:	11
by signer, dual jurisdiction entry, jurisdiction name given by		
signer does not align with address)		
Date errors (no date given by signer, date of birth entered, or	Less:	9
date given by signer is later than circulator's date of signing)		
Circulator errors (circulator did not sign or date petition, etc.)	Less:	23
Miscellaneous errors (signatures of dubious authenticity	Less:	3
where the petition signature does not match the signature on		
file or multiple signatures appear to have been written by the		
same individual, etc.)		
TOTAL		1,434

Staff's face review of Tom Barrett's petition sheets identified 46 invalid signatures and 1,434 facially valid signatures.

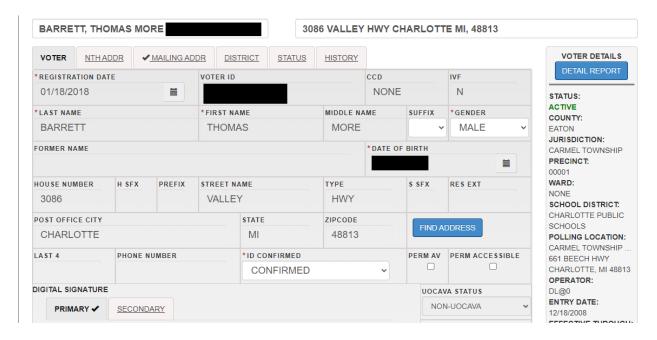
**CHALLENGE:** Congresswoman Elissa Slotkin challenged<sup>1</sup> the heading of the petition submitted by Mr. Barrett. The challenge alleges that the heading of the petition is insufficient because it contains both Charlotte and Carmel Township and because Mr. Barret has provided his zip code – information not required by Michigan Election Law:

<sup>&</sup>lt;sup>1</sup> MCL 168.552 requires the challenge be made in a "sworn complaint." The Bureau's and Board's interpretation has been to require that challenges must be submitted in a document that is notarized. While the challenge does contain a statement that it is made under penalty of perjury, because it is not made on a notarized document, staff would reject the challenge. However, even if the challenge were procedurally proper staff would recommend rejecting it on the merits as explained in this report.

## NOMINATING PETITION \*The "Countywide" Partisan Petition form may be used by any partisan candidate. Exception: the form may not be used by a partisan candidate who seeks the office of County Commissioner; such candidates must use the "City/Township" Partisan Petition form. INSTRUCTIONS ON REVERSE SIDE (COUNTYWIDE PARTISAN) Thomas More Barrett 3086 Valley Hwy, Charlotte, MI 48813 We, the undersigned, registered and qualified voters of the County of Library 1994 and State of Michigan, nominate (Name of Candidate) (Street Address or Rural Route) Party for the office of United States Representative in Congress/Jan 2025 Carmel Township Republican \_as a candidate of the (City or Township) (District, if any) to be voted for at the Primary Election to be held on the 2nd August . 20 22 001

Rep. Slotkin argues that the addition of both the Charlotte mailing address and the Carmel Township jurisdiction should render each sheet invalid as it constitutes a dual entry. She argues that *Stand Up for Democracy v. Sec'y of State*, 492 Mich 588 (2012) requires strict compliance with MCL 168.544c and Michigan courts routinely reject petitions for not strictly complying with MCL 168.544c (citing *Delaney v. Board of State Canvassers*, 2016 WL 3365337, at \*2 (Mich Ct App, June 16, 2016).

Staff recommends rejecting this challenge because the jurisdiction entries are both correct and Carmel Township is wholly contained within Charlotte. First, Mr. Barrett's registration information is as follows:



Since Mr. Barrett is registered in Carmel Township, he could have listed Carmel Township in the heading of the petition. However, since his mailing address is Charlotte, he also could have listed Charlotte in the heading. The addition of both does not render the petition heading invalid where both are correct.

Additionally, while voters signing the petition are only required to list one jurisdiction, there is no such requirement for candidates. The purpose of the requirement for voters to provide one jurisdiction is so staff can verify the city of registration for the voter when determining signature validity. Candidates are not subject to the same requirements.

Similarly, the addition of the zip code does not render the petition invalid. Staff disagrees with the challenge's interpretation of *Stand Up for Democracy* and *Delaney*. The challenge is correct in asserting that a zip code is not a mandatory element under MCL 168.544c and that candidates must strictly comply with the requirements of 544c. However, *Stand Up for Democracy*, *Delaney*, and other cases issued from Michigan Courts have considered *omissions* of mandatory elements under 544c that render the entire sheet invalid. *See Stand Up for Democracy* (requiring the Board to reject a statewide petition drive containing an incorrect font size); *Delaney* (finding

the Board properly rejected a candidate petition which failed to provide the street name of the candidate); *Aiello v. Sabaugh*, 2016 Mich App LEXIS 1214 (June 21, 2016) (finding that the rejection of petition sheets excluding the date of the primary election was proper).

Recent case law also makes clear that the *addition* of information not required by the statute does not render the entire petition invalid – even if the information is incorrect. *See Comm. to Ban Fracking in Mich. V. Sec'y of State*, 2020 Mich. App. LEXIS 2563 (finding that the inclusion of the incorrect election date in the heading of a statewide initiative did not render the entire petition sheet invalid); *Raise the Wage MI v. Bd. Of State Canvassers*, 970 N.W. 2d 677 (Mich. 2022) (finding that the inclusion of a printer's union label containing improper font size on a statewide petition sheet did not invalidate the petition because the statute "neither expressly nor implicitly precludes the inclusion.").

Accordingly, staff recommends that the challenge be rejected.

**STAFF RECOMMENDATION:** Determine petition sufficient.